REMARKS

The Examiner is thanked for the consideration given the application. Claims 27-52 are pending.

Rejection Over Nagai

Claims 27-52 were rejected under 35 U.S.C. §102(b) as being anticipated by or, alternatively, under 35 U.S.C. §103(a) as being unpatentable over Nagai (US 2001/0004708). This rejection is respectfully traversed.

The present invention pertains to a capsular tension ring adapted to be implanted in the equatorial region of a capsular bag after ablation of a cataractous crystalline lens. This capsular tension ring is illustrated, by way of example, in Figures 1-4 of the application, which is reproduced below.

Fig.1

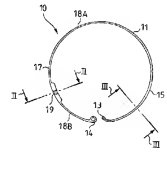
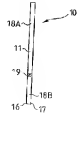


Fig.2

Fig 3

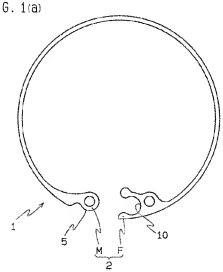
Fig.4



Features of the present invention include the capsular tension ring including an open or closed annular body 11 having sharp edges 16, 17 and an axial length from about 0.3 mm to about 0.6 mm, the annular body 11 including the sharp edges 16, 17 being made from rigid material over the majority of its circumference and includes at least one flexible material junction 19 between two segments 18A, 18B of the rigid material annular body. See, e.g., independent claim 27.

In rejecting the claims of the present invention, the Office Action refers to Figure 1(a) of Nagai, which is reproduced below.

FIG. 1(a)



This rejection set forth in the Office Action includes no discussion of the claimed features and no discussion of the corresponding features of Nagai. While this understandable readability is manifest, it is certainly not understood because this prior art of Nagai clearly does not show the features on which the patentability of the claims are predicated. The Office Action mentions that Nagai discloses the use of a rigid material

capsular tension ring. This is the prior art and not the invention. Nagai's rigid material capsular tension ring suffers from the drawback of the prior art as pointed out on page 2 lines 19 *et seq.* of the application, namely that such rigid material rings impacted violently against the equatorial region of the capsular bag or sac with the attended risk of a lesion of the bag or sac or tearing of the zonules attached to the exterior of the capsular bag or sac.

Nagai does not disclose a capsular tension ring formed from *inter alia* an annular body including sharp edges which is made of rigid material over the majority of its circumference and includes at least one flexible material junction between two segments of the rigid material annular body. This feature is present in all embodiments. For example, see the flexible material junction 19 between two rigid material sections 18A and 18B of the capsular tension ring (refer to Figures 1-4, reproduced above). As regards to the Figure 1 embodiment see the three flexible material junctions 19A, 19B, 19C between sections 25A, 25B, 24A, 24B of the embodiments of Figures 6 and 7 of the rigid material annular body. In the Figure 8 embodiment see the two flexible material junctions and in the Figure 9 embodiment see the flexible material junction 19.

Fig. 6

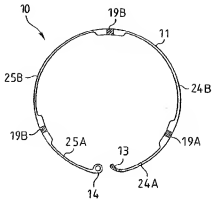


Fig. 7

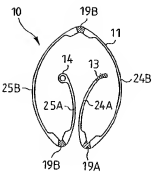


Fig. 8

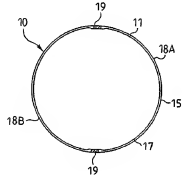
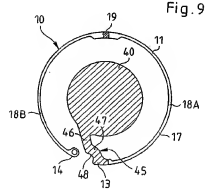


Fig. 9



The application also contains a discussion of the prior art, the problems facing the prior art, and the solution to the problems in accordance with the claimed invention. Nagai is not directed to the claimed solution to the prior art, but at best

shows the known drawbacks of the prior art brought out in the background of the invention.

Nagai's capsular material ring is made of rigid material, as pointed out by the Office Action, but utterly fails to disclose at least one flexible material junction between two segments of the rigid material annular body. The Office Action has not pointed out where this is disclosed in the Nagai. Clearly Nagai has a junction at the ends of a rigid material annular body but the junction portions are made of exactly the same rigid material as the rest of the annular body. Surely there is no possible reason to make the junction portion, which must ensure the connection of the ends of the annular body, of a flexible material. The utilization of a flexible material in the technology of Nagai would result in the annular ring coming apart.

Furthermore, the fabrication of the junction portion of a flexible material (which is NOT taught or suggested in Nagai) would not meet the claim requirement that it is between two segments of the rigid material annular body.

The shortcomings of Nagai are even more glaring when it comes to the invention of claim 49 which recites, *inter alia*, a method comprising the steps of preparing the flexible material annular body and then chemically modifying segments of the annular body to form rigid segments, junctions between the rigid material segments remaining of flexible material. Again, this is nowhere taught or suggested and has been rejected under section §102(b)

without any comment on methods of fabricating the Nagai capsular tension ring which utterly fails to teach the claimed method of fabrication.

Claims 27-52 are also rejected under 35 U.S.C §103(a) as being obvious over Nagai. Again, without any discussion of how the presence of the claimed flexible material junction between segments of rigid material annular body becomes obvious over Nagai (which has no such teaching). Nagai additionally does not disclose a method of fabricating such a capsular tension ring by chemically selectively modifying the flexible material annular body segment to form rigid material annular segments.

The §103(a) rejection indicates that "*to optimise the device to fit that of the subject*" was obvious because it is well-known within the technical skills in the art "*to make the implant sized and shaped to fit the subject, where it may be desirable*". It is true that the claimed invention includes dimensions which, however, are in no way to adapt capsular tension ring to the anatomy of a particular patient's eyes. The axial length of the closed annular body between 0.3 and 0.6 mm together with corresponding sharp edges provides an effective barrier to the migration of endothelia along the posterior capsule which could otherwise cause secondary cataract requiring the YAG laser opening of that opacified rear capsule, and not the size of the eye. The radial width of the annular body of claim 38 ensures the structural integrity.

Dependent claims recite additional patentable features. As none of those have been considered in the outstanding Office Action and bearing in mind that the independent claims 27, 49 and 51 from which they depend directly or indirectly are manifestly not taught or suggested by the cited and applied prior art, those dependent claims are likewise also *prima facie* patentable.

These rejections are believed to be overcome, and withdrawal thereof is respectfully solicited.

Conclusion

I view of the fact that the applicant did not amend the claims in any way, it is expected that if this request for reconsideration does not result in a Notice of Allowability, then the next action will be non-final in light of the additional consideration and/or search necessary to develop a valid rejection.

But since no issues remain at this point, the issuance of a Notice of Allowability is respectfully solicited.

In the event that there are any questions relating to this Request for Reconsideration, it would be appreciated if the Examiner would telephone the undersigned Attorney.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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